



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony of
The Connecticut Insurance Department
Before the
Insurance and Real Estate Committee
February 8, 2011

S.B. 28--An Act Concerning Surety Bail Bond Agents and Professional Bondsmen

S.B. 28--An Act Concerning Surety Bail Bond Agents and Professional Bondsmen, reflects many provisions that the Connecticut Insurance Department negotiated in the past with interested legislators. The Insurance Department currently lacks the requisite statutory authority to regulate surety bail bond agents effectively and appreciates the opportunity to testify in favor of those provisions in S.B. 28 that provide the Connecticut Insurance Department with additional regulatory authority over the surety bail bond industry. The provisions of S.B. 28 that impact professional bondsmen fall within the authority of the Department of Public Safety and, therefore we will offer no testimony on those provisions.

Many are surprised to learn that the Insurance Department regulates a large contingent of bail bond agents. Currently, there are 459 bail bond agents in Connecticut and another 133 bail bond agencies. Insurance Department staff spends considerable amount of time and effort to regulate these agents, sometimes without having any clear authority to address a number of issues related to the bail bond industry and the manner in which surety bail bond agents conduct business. The Department lacks the requisite statutory authority to regulate them effectively and repeated attempts seeking appropriate legislation have failed in the past. Last year, we were very close to gaining passage of a comprehensive proposal, HB 5147, which passed four separate committees with one dissenting vote and the House of Representatives unanimously, only to die in the Senate on the last day of session.

Last year's legislation reflected appropriate compromise and consensus among the Insurance Department, stakeholders and interested legislators, and many of those provisions are contained in the current proposal. This year, rather than reintroduce the comprehensive legislation sought last year, out of respect for the legislative process that shaped the legislation and achieved consensus through compromise, the Department would ask the Committee to take favorable action on S.B. 28, which reproduces the compromise and consensus bill of last year that died in the Senate. The Department is hopeful that those legislators who sincerely seek to improve the regulation of the bail bond industry in this state will honor the compromise and consensus agreement embedded in this legislation so that we may move forward in its timely passage.

S.B. 28 reflects the agreement that was reached last session and includes the following substantive provisions.

The proposal requires bail bond agents to charge the full premium and directly addresses a practice known as “undercutting”, which occur when bail bond agents compete for business by discounting the premium due on a bond and do not charge their clients the amount they are statutorily required to charge them. This unlawful behavior allows defendants to post bond at rates lower than what the state requires. For example, bail set by a judge at \$10,000, has a premium of \$850 that must be paid by the defendant. In some instances, in order to get business from a client, a bail bondsman will charge a \$600 premium (instead of \$850) for the same bond. This is commonly referred to as “undercutting” and it is illegal. The bill’s language, similar to the language negotiated last year, allows the use of payment plans that would allow defendants to pay any amount due on a bond within 15 months. Any payment plan, however, would require that defendants provide a down payment of no less than a 35% of the total premium on a bond.

Second, this proposal establishes standards for solicitation, record retention, reporting requirements, and accounting for premiums that allow for strong regulatory oversight by the Insurance Department. Further, these provisions establish uniform standards of record retention to ensure that the Insurance Department has access to tangible records when conducting market conduct examinations of bail bond agents. These standards will provide much needed transparency in an industry that currently has virtually none. Such transparency will be enhanced by posting the results of market conduct examinations on the Department’s website for public inspection.

To guarantee that the Department has adequate resources to conduct market conduct examinations of the bail bond industry, this negotiated agreement includes a funding mechanism that will enable the Department to cover the costs of such examinations. These funds will be deposited in a Surety Bail Bond Agent Exam Account within the Insurance Fund to be used to pay the costs associated with examinations aimed at ensuring that surety bail bond agents are maintaining the proper records, are managing collateral from defendants in a legal manner, and are adhering to all applicable provisions of the law. We are asking the Committee to amend this provision to require that any funds that have not been expended in this fund at the end of each year, be transferred to the General Fund rather than accrue in this new account. This change, along with additional modifications previously developed in conjunction with the Judicial Department, is attached to this testimony.

To prevent the kind of disruptive behavior that currently occurs from time to time because of the conduct of certain surety bail bond agents, this initiative also prohibits both bail bond agents and professional bail bondsmen from soliciting business inside courthouses, police stations, correctional institutions, community correctional centers and detention facilities.

Other provisions in this bill include:

- Establishing standards for bail bond agent licensure and company appointments;
- Requiring surety companies to conduct audits of bail bond agents to ensure that they receive full payment when posting bail bonds;

Requiring surety companies to certify the integrity of the bail bond agents and to assume full responsibility for the acts and conduct of their appointed agents;

Establishing standards for the return of collateral to defendants;

Requiring bail bond agents to swear under oath that they have charged the state approved premium;

Prohibiting bail bond agents from rebating law enforcement and other officials to secure a bond; and,

Prohibiting bail bond agents from executing a bond without the defendant's knowledge or consent.

In the end, if these reforms are enacted, the Insurance Department will have the tools needed to regulate bail bond agents in a manner that protects the public from potentially dangerous criminals who, under the current system that lacks adequate safeguards to prevent surety bail bond agents from discounting the premium on bonds, may not have sufficient financial exposure when they post bail and, as such, compromise the integrity of the bail bond system in Connecticut.

Reform of the bail bond industry is needed and long overdue. The Connecticut Insurance Department urges you to support this important agreement and appreciates that the Insurance and Real Estate Committee has raised this vitally needed initiative.

**Insurance and Real Estate Committee
February 8, 2011**

**Proposed Changes Requested by the Connecticut Insurance Department
Regarding Senate Bill 28 – An Act Concerning Surety Bail Bond Agents and
Professional Bondsmen**

Line 97, after the term “defendant” insert “who has absconded”

Line 157, after the term “and” delete “any such moneys shall not be”

Line 158, delete “transferred to the General Fund” and replace with the following language, “any such moneys remaining in this account at the close of a fiscal year shall be transferred to the General Fund.”

Line 259, delete “verified complaint” and insert “civil action”

Line 396, delete “If” and insert “Whenever”

Line 411, delete “an application with the court,”

Line 412, delete “which may allow recovery of” and insert “a civil action to recover”

Line 502, delete “Permissible” and insert “Except that”

Line 502, after the term “print advertising” insert “that may be permitted”

Line 541, delete “Execute” and insert “Write”

Line 544, after the end of the sentence, add the following sentence “Such signed authority shall be maintained by the surety bail bond agent.”

Line 554, delete “information” and insert “records”

Line 821, delete “Permissible” and insert “Except that” and after the term “print advertising” insert “that may be permitted”

Line 898, at the beginning of the sentence, add “During regular business hours,”

Line 905, delete the “.” And replace it with “, in the centralized computer database pursuant to s. 54-2a(e).”